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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,063	01/26/2006	Henry Buse	Q92726	2042
23373                      7590                      02/04/2010				
SUGHRUE MION, PLLC				
2100 PENNSYLVANIA AVENUE, N.W.				
SUITE 800				
WASHINGTON, DC 20037				
EXAMINER				
CHEUNG, CHUN HOI				
ART UNIT		PAPER NUMBER		
3728				
NOTIFICATION DATE		DELIVERY MODE		
02/04/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com  
PPROCESSING@SUGHRUE.COM  
USPTO@SUGHRUE.COM

### Office Action Summary

**Application No.**

10/595,063

**Applicant(s)**

BUSE, HENRY

**Examiner**

CHUN CHEUNG

**Art Unit**

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 44 and 45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

### DETAILED ACTION

After a careful review of the Office Action mailed on 05/08/2009, the Finality of that Office Action is hereby withdrawn. Accordingly, the amendment filed 1/4/2010 is entered with claims 44 and 45. All other claims (1-43) have been cancelled.

### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Singer (GB 2175884).

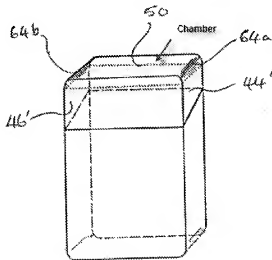


Fig. 5

As to claim 44, Singer discloses a hinged-lid box, for a cigarette block wrapped in an inner blank as pack contents (page 1, lines 9-10), comprising a longitudinally extending box part (Figure 5), lid and collar, the box part having a relatively wide box front wall (10), a corresponding box rear wall (12), relatively narrow box side walls (14, 16) and a base wall (18), and the lid having a relatively wide lid front wall, a corresponding lid rear wall, relatively narrow lid side walls and an end wall (Figure 5), characterized by the following features: a) the lid is connected in a pivotable manner to the box part in a region of the lid rear wall, and to the box rear wall, by a transversely directed linear articulation (Figure 5), b) formed above or beneath the cigarette block is a free chamber (Figure above, if the width of the cigarette block is the width of the cigarette pack, the rounded portion will create a chamber) which is bounded in an outward direction in a region of the lid at least by the end wall, the lid front wall and the lid rear wall or in a region of the box part below the pack contents by the base wall, the box front wall and the box rear wall, and is bounded in an inner direction by the cigarette block, c) the chamber is arranged symmetrically in relation to a transverse, central vertical plane of the box (Figure 5), and d) the end wall or base wall has an arcuate configuration, running from one lid side wall to the other lid side wall or from one box side wall to the other box side wall, e) lateral sub-regions of the end wall or the base wall, namely side section (54a, 54 b or Figure 5, 64a, 64b), comprises extended end tabs (58' and 68 combine or 56' and 66 combine) of inner lid side tabs and box side (Figures 4 and 5), f) end wall and/or the base wall are of at least double layered design in a central section (66 and 68 attached to crosspiece 50 or 60 and 62 attached to the crosspiece 48), by

virtue of a crosspiece (50 or 48) being arranged on the outside of the end wall or base wall g) end regions of the end tabs (60, 62 or 58' and 56') being fastened on an inner side of the crosspiece. However, Singer does not disclose a collar attached to the cigarette box, and does not disclose the arcuate angle is predominantly arcuate configuration. Nevertheless, It would have been obvious to a person having ordinary skill in the art at the time of the invention to put a collar inside the cigarette pack box is well-known in the art of cigarette packaging and also the predominantly arcuate angle is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

3. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Singer (GB 2175884) in view of Draghetti (5,833,060).

As to claim 45, Singer discloses a hinged-lid box, for a cigarette block wrapped in an inner blank as pack contents (page 1, lines 9-10), comprising a longitudinally extending box part (Figure 5), lid and collar, the box part having a relatively wide box front wall (10), a corresponding box rear wall (12), relatively narrow box side walls (14, 16) and a base wall (18), and the lid having a relatively wide lid front wall, a corresponding lid rear wall, relatively narrow lid side walls and an end wall (Figure 5), characterized by the following features: a) the lid is connected in a pivotable manner to the box part in a region of the lid rear wall, and to the box rear wall, by a transversely directed linear articulation (Figure 5), b) formed above or beneath the cigarette block is a free chamber (Figure above, if the width of the cigarette block is the width of the cigarette pack, the

rounded portion will create a chamber) which is bounded in an outward direction in a region of the lid at least by the end wall, the lid front wall and the lid rear wall or in a region of the box part below the pack contents by the base wall, the box front wall and the box rear wall, and is bounded in an inner direction by the cigarette block, c) the chamber is arranged symmetrically in relation to a transverse, central vertical plane of the box (Figure 5), f) lateral sub-regions of the end wall or the base wall, namely side section (54a, 54 b or Figure 5, 64a, 64b), comprises extended end tabs (58' and 68 combine or 56' and 66 combine) of inner lid side tabs and box side (Figures 4 and 5), g) end wall and/or the base wall are of at least double layered design in a central section (66 and 68 attached to crosspiece 50 or 60 and 62 attached to the crosspiece 48), by virtue of a crosspiece (50 or 48) being arranged on the outside of the end wall or base wall, h) end regions of the end tabs (60, 62 or 58' and 56') being fastened on an inner side of the crosspiece. However, Singer does not disclose a collar attached to the cigarette box, and does not disclose the end wall or base wall comprises a plurality of in each case planer section which are directed at an angle to one another, namely two obliquely directed side sections and a horizontally or transversely directed central section and the obliquely directed side section adjoin the side walls and the central section, at an obtuse angle in each case. Nevertheless, Draghetti et al discloses collar (34) attached to a cigarette box and further discloses the end wall and base wall comprises a plurality of each case planer sections which are directed obliquely directed (17', 16', 10' and 11') section and a horizontal central section, and the central section at an obtuse angle in each case (Figures 2 and 3). It would have been obvious to a

person having ordinary skill in the art at the time of the invention was made to modify the container of Singer with collar attached to the cigarette box and also the modify the arcuate portion of the side portion with obliquely directed section and a horizontal central section with obtuse angle relation as taught by Draghetti to perform the same function whether the side chamber with the oblique surface or arcuate angle surface. It has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUN CHEUNG whose telephone number is (571)270-5702. The examiner can normally be reached on Monday to Friday: 8:30AM~ 6:00AM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHUN CHEUNG/  
Examiner, Art Unit 3728

/Mickey Yu/  
Supervisory Patent Examiner, Art  
Unit 3728